

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:06-CR-271-WKW
)	
COREY HARVEY, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This case is before the Court on Mr. Harvey's Unopposed Motion to Continue (Doc. # 38), and Mr. Grice's Motion to Continue (Doc. # 46). The criminal case is currently set for trial during the week of April 23, 2007. For the reasons set forth below, the Court finds that the trial should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the Court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(8)(A).

The Court finds that the ends of justice served by continuing this trial outweigh the best interest of the public and the defendants in a speedy trial. In support of his motion to continue, Mr. Harvey states that there are outstanding pretrial motions that have yet to be dispensed by the magistrate judge. Accordingly, the deadline for any objections by the defendants to the report and recommendations of the magistrate judge abuts the trial term in this matter, which could potentially harm defendants' defense. Mr. Grice respectively shares the same concerns as Mr. Harvey. The government does not object to a continuance in this matter.

Accordingly, it is ORDERED that the Mr. Harvey's Unopposed Motion to Continue Trial (Doc. # 38) is GRANTED, and Mr. Grice's Motion to Continue (Doc. # 46) is GRANTED. Trial in this matter is continued from April 23, 2007, to the criminal term of court beginning on August 6, 2007.

DONE this 11th day of April, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE